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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,335	09/24/2001	Kenneth A. Klarfeld	MET1.0023	2141
23386 7590 04/05/2007 MYERS DAWES ANDRAS & SHERMAN, LLP 19900 MACARTHUR BLVD., SUITE 1150 IRVINE, CA 92612			EXAMINER BROWN, RUEBEN M	
			ART UNIT 2623	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/963,335

Applicant(s)

KLARFELD ET AL.

Examiner

Reuben M. Brown

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/29/2007 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz, (U.S. Pat # 5,758,257), in view of Watts, (U.S. Pat # 5,671,411).

Considering claims 20 & 28, the claimed method of displaying a TV program to a viewer, comprising processing information indicative of preferences of the viewer to develop a viewer characteristic information profile for the viewer is met by Herz, col. 10, lines 6-55; col. 11, lines 15-65 thru col. 12, lines 1-55; col. 14, lines 10-65, col. 15, lines 10-60.

Storing the viewer characteristics information profile on a viewer storage device, is met by col. 40, lines 21-65; col. 41, lines 1-15; col. 45, lines 9-30. Presenting the viewer with a list of TV programs available for viewing, the programs selected in accordance with the characteristics information profile, is met by col. 45, lines 34-50.

Receiving input from the viewer requesting different selections, col. 45, lines 34-60. Presenting the viewer with a list of alternative TV programs for viewing the alternative list selected in accordance with an alternative characteristics information profile, is met by the disclosure in Herz that more than one customer profile maybe stored at the STT, from which the user may receive a different list of suggested programming, col. 45, lines 55-67 thru col 46, lines 1-20.

As for the amended claimed feature of the list of TV programs being arranged in accordance with viewer characteristics information, Herz does not explicitly teach such a feature.

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Nevertheless, Watts, which is in the same field of endeavor provides a teaching of arranging a listing of programs according to a subscriber criteria, i.e. profile, col. 3, lines 40-67; col. 4, lines 21-65; col. 5, lines 1-35. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Herz with the feature of organizing a list according to viewer preferences, at least for the improvement of allowing the viewer to see the list of programs in the order which he would most likely be interested, see Watts col. 1, lines 35-67; col. 2, lines 1-10.

Considering claims 21-27, Herz meets all subject matter, col. 17, lines 35-65; col. 26, lines 5-65; col. 46, lines 1-20. Also see Watts, col. 6.

Considering claims 29-31, see Herz, col. 26, lines 1-21; col. 29, lines 30-65 & col 45, lines 20-65.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Lawler Organizing an EPG according to preferences.

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Commissioner for Patents  
P.O. Box 1450  
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**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

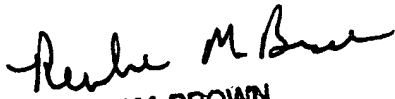
(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown

  
**REUBEN M. BROWN**  
**PATENT EXAMINER**